A BRIEF ON WIFE ASSAULT AND PROTECTION FOR BATTERED WOMEN

presented to: the Parliamentary Committee on Health, Welfare and Social Affairs

by:

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February 18, 1982

The Women's Research Centre is pleased to have the opportunity to make a presentation to this committee. Although wife assault is a difficult issue, this committee has been fortunate to have received to date thoughtful, accurate, and consistent advice. We draw attention in particular to the briefs from the Canadian Advisory Council on the Status of Women and from the Ontario Association of Interval and Transition Houses. We endorse the recommendations contained in these briefs and urge the committee to act on them.

The afore-mentioned presentations, as well as that of the Minister Responsible for the Status of Women, provide an analysis of and background information on the problem of wife battering that is a prerequisite for understanding and dealing with the issue. We would refer the committee also to the Women's Research Centre publications on wife assault, specifically Battered and Blamed: A report on wife assault from the perspective of battered women, and A Study of Protection for Battered Women. (Other Centre publications on the issue have been made available to the committee also.)

It is clear that wife assault is a critical problem in our society. In this brief we outline what we have learned from our extensive research to be the nature of the problem. Further, we outline briefly the findings of our most recent research into protection for battered women - focussing on the role and responsibility of the health care, social service and criminal justice systems in providing protection. We include recommendations and suggestions for dealing with wife assault and providing the assistance which battered women need and to which they have a right.

Since the Centre's research was conducted in British Columbia, there are specific references to the way the legal, health care and social services systems operate in that province. Nevertheless, other studies of wife assault, including those from other parts of Canada, the United States and Britain, suggest that sufficient commonality exists between systems to make our research findings relevant in those areas as well.

1. The Nature of the Problem of Wife Assault:

Documentation of battered women's actual experience shows many of the theories that commonly attempt to explain wife assault are over-simplifications, flawed by the lack of empirical evidence to substantiate them. The empirical data gathered by the Women's Research Centre in its work discloses some of the realities of wife battering.

There is no accurate profile of the battered woman. Battered women come from diverse circumstance and socio-economic status. Some are financially independent of their husbands. However, like the majority of Canadian women, most battered women are economically dependent on their husbands or have skills and training that equip them for lower-paid occupations. Many battered women we have interviewed had experienced violence in their parental homes; others had not. According to the women's accounts, the same variation is true of the men who battered them. Many battered women married to escape unhappy backgrounds while others hoped to replicate their parents' good marriages. Battered women's expectations of marriage, which were largely positive and optimistic, were not fulfilled whether they married men from happy or unhappy backgrounds. Their husbands' violence against them was a major problem in their marriages but there were often attendant problems such as concerns over money and their husbands' devaluation of the women's work in the home, including child care.

It is difficult to offer a definition of battering which does not run the risk of excluding incidents of violence. Many couples quarrel, some may throw objects around, shout insults, or attempt to make the other appear childish and wrong. Occasionally, a spouse may strike the other in anger. While such a relationship may potentially be one in which battering could occur, it does not display the characteristics of battering: the attempt to control and punish the woman; the fact that the violence is directed primarily against the woman; that no attempt at negotiation to resolve the conflict occurs; that no reasonable change in her behaviour stops the abuse; that she is seen during the battering as the rightful object of violence; that despite periods of remorse, the husband does not of his own accord, quit battering; that the violence does not necessarily occur during or after a verbal argument.

According to our research, the physical violence battered women experience at their husbands' hands ranges from assaults causing bruises to injuries requiring extensive medical treatment. Their husbands hit them in the head and face, punch or kick them, stab them and, in some cases try to murder them. Women reported being assaulted with such weapons as the burner rack from a stove or broken bottles, as well as with knives and guns. Assaults resulted in bruises, broken bones, internal injuries, torn ligaments and dislocated joints. For many women the battering began early in their marriages; for others it began after years of marriage. For some, their husbands' assaults were a regular occurrence, every day, each week; other women were assaulted sporadically.

A husband's reaction to his wife's pregnancy and a concomitant jealousy of the couple's children was cited by some women as a key factor in their husbands' violence. Another widely-reported factor were financial problems, including the husband's refusal to provide the necessary funds to meet the family's needs. The most prevalent factor, evident in women's accounts of how the battering happened, was the issue of control - i.e. violence resulting from the husband's frustrated desire to exercise absolute control over his wife's behaviour. This desire for control embraced all aspects of the woman's life, including her work in the home, caring for the family and maintaining the household, her social life and contacts through her family or work outside the home.

Some women described their husbands beating them for the first time during pregnancy. In many cases such assaults caused miscarriages. And frequently, the assaults began when the children were born - which some women attributed to their husbands not wanting to take responsibility, financially and otherwise, for children. (It should be noted that many women said their husbands had also threatened to or actually did beat their children.) Women reported being beaten when they asked their husbands for money for their children's clothing or for groceries for the family. Some said they were assaulted when their husbands had spent all their household money on drinking or gambling or when bills piled up. For many women, visiting with friends, coming home late from seeing a movie or keeping in touch with their families by telephone or letters precipitated violence from their husbands.

Women indicated that their husbands often seemed to see themselves as the supervisors of the household. They required that their wives run it efficiently according to the husbands' standards - standards which were rarely articulated until the women failed to meet them. Other women described their husbands dictating what housework should be done and inspecting the window sills, stoves or the tops of doors to determine whether "proper" standards had been met. In some cases women were beaten for not doing the housework fast enough. It should be noted that alcohol was not cited by the women we interviewed as a key factor in their husbands' assaults. For example, in the research the Centre conducted with Vancouver Transition House (Barnsley et al., Battered and Blamed, 1980, p.67) less than 25 per cent of the residents mentioned alcohol abuse as a circumstance of the assaults. And even in those relatively few cases where the husband's alcohol abuse was noted as a problem, it was not a consistent feature of the assaults.

Women do not like to be beaten. The Women's Research Centre's interviews with battered women indicate clearly that they try in every way possible to stop their husbands' assaults. Women usually tried first to fulfill their socially ascribed responsibility to preserve their marriages. They described their attempts to satisfy their husbands, to normalize the relationship. They tried everything they could - not talking so much, talking more, staying home more, going out more, catering to their husbands' wishes, standing up for themselves. Significantly, their efforts were unsuccessful: a woman cannot control her battering husband. The reasons for his behaviour are outside her control, and she is undermined by economic dependence and traditional attitudes about who has the right to make decisions in the family. She does not provoke the beatings, although any particular beating will be blamed on some piece of "misbehaviour." Women who are told to try to "get along" with a battering husband are being told to do something which is impossible to do.

Since battered women are often isolated by their husbands, their ability to seek help is restricted. In addition, the social stigma associated with wife battering and the view that what happens in the family is a private matter are inhibitions to seeking assistance. However, many women reported that they had tried counselling programs, including marriage counselling, as a possible solution to the problem. In most

cases the husbands involved refused to participate on the grounds that they didn't have a problem. In those cases where counselling was tried, it was unsuccessful. The counsellors, psychologists and psychiatrists incorrectly constructed wife assault as an interactional problem, blamed the women for provoking the assaults, and held the women responsible for rehabilitating their assailants. This approach serves to absolve the batterer of responsibility for his own behaviour and also ignores the risks to the woman's safety. The medical model, on which this approach is based, has permeated much of the health care and social service fields. In large part this accounts for the fact that battered women were unable to receive adequate assistance from the professionals they approached in those areas.

Although it is commonly assumed that women stay in battering situations, this is not the case. Battered women, out of self-preservation and/or fear for their children, do try to leave their violent marriages. (Over 70 per cent of the population for the research project the Centre conducted with Vancouver Transition House.) In many cases, they try repeatedly to leave.

However, women cannot easily leave the men who beat them - the battering is accompanied by other forms of control and isolation, and all these factors combined leave the women with few resources to change or leave their relationships. A crisis usually forces women to leave - they may return one or more times before they find a way to leave for good. The major problems a battered woman faces are: she has nowhere to go; no protection from her husband; no money to enable her to stay away; and very little help from the "helping professions." Some women - one in every five murder victims - do not escape in time.

The structures and values of society effectively inhibit women's social or economic independence. Battered women face the same difficulties of inequality in job opportunities and pay scales and the lack of child care that all women face in our society. If women seek income assistance as a means of supporting themselves and their children, their income from welfare payments and other benefits combined will be well below the poverty line. Affordable, adequate housing for single mothers and their children is hard to find. Support services, to help battered women to deal with the difficulties of being single mothers and the effects of the

assaults they have endured, are scarce. Facilities and programs to help children to deal with the consequences for them of wife battering are virtually non-existent.

Of all the resources women utilized to deal with their situations, transition houses were the only resource they consistently assessed positively. Among those who have examined the problem of wife assault, transition houses are widely recognized as the most viable alternative service available to many battered women. However, most transition houses operate at 100 per cent capacity and are forced to turn women away, because of lack of space. More transition houses are clearly needed.

Transition houses cannot and should not be expected to solve all the problems battered women face. Further, mary battered women may not need or be able to go to a transition house to deal with their situations. In addition, ongoing support services, post-transition house, are a major need. Support groups and services, designed specifically to assist battered women, are required. More second stage facilities, such as Vancouver's Munroe House, are necessary for those women who require supplementary assistance in establishing their independence from their husbands.

2. Protection for Battered Women:

The lack of adequate protection has repeatedly been identified as a central problem facing battered women. Many women described being afraid to seek help from the police or the legal system because "it wouldn't do any good" or it would make their husband more violent towards them. Like most citizens, a battered woman is unlikely to know much about the laws that govern her life until she tries to use them. This lack of legal information inhibits many women from seeking protection. However, women who did call the police and/or pursued legal options were not protected. In many cases, they not only left their husbands and laid assault charges, but even obtained a divorce. Nevertheless, these women described being forced to flee when their husbands found the family's new address. Others were abducted by their husbands or harassed repeatedly. They live desperate lives of terror as a result.

It is important to emphasize the need for the legal, health and social service disciplines to cooperate and interconnect in their work with battered

women. A victim of battering may seek help from any one or all of these systems. A coordinated set of protocols, agreed-upon intervention strategies, and equal committment to protection would improve the situation for workers in each system, and, of course, would help battered women as they seek assistance. The criminal justice system has responsibility to act on infringements of the Criminal Code, the health system has a responsibility to respond to injuries and illness, and the social service system has a responsibility to protect children and administer social assistance to those in need. However, neither health, social service nor legal staff should be expected to bear the protection load by themselves. Wife battering, like child abuse, requires a coordinated response from the various professions and systems involved.

Health Care:

As we have discovered, few health professionals actually ask a woman if she is being hit. Not only does this leave a battered woman in danger but it means she is receiving inappropriate assistance from many health professionals. Dispensing of mood-alterning drugs, referrals to psychotherapy, mere splinting of bones and stitching of lacerations are not adequate prescriptions for a battered woman in that her health, other than the immediate injury perhaps, is not substantially improved. Furthermore, her ongoing health is not protected.

Doctors' control over patient care manifests itself in several ways, with varying ramifications for battered women. Medical doctors can choose to work with patients in such a way as to avoid input from the patient or from other health professionals. Physicians may avoid or avert discussion about battering if it appears to them to be a matter ouside of their jurisdiction. This occurs especially when they do not see the relationship between a woman's complaint and the possibility of battering. These practitioners will say they don't have time - that they don't wish to become involved, perhaps because of the possibility of court appearances, or they may themselves believe violence towards wives is a normal part of marriage.

For battered women, their doctor's decision to avoid or minimize discussion about battering means continued isolation and certainly more beatings for the women. This situation is exacerbated in small communities where there is not a wide choice of medical practioners to go to. And ironically, as some references point out, failure by the doctor to probe or listen in cases of

battering ensures frequent return visits to the doctor's office. (Evan Stark et al., Wife Abuse in the Medical Setting, 1981, p.38)

Battered women described their experiences of actually telling their doctors or other health professionals about their battering and receiving responses ranging from victim blaming to the prescribing of valium. Women are refused further referrals, or are referred for counselling with their husbands, to help with the "communication difficulties" the couple is perceived as having.

In many cases, as psychologists and emergency room nurses said, "Doctors don't ask the question, so the referral never happens." A psychiatric nurse clinician commented that referrals made to her by G.P.s seldom stated battering as a problem: the patient was usually described as "as depression with relationship problems."

Except for some mental health professionals, most health professionals treat physical injury, disease, or symptoms, then dismiss patients or refer them elsewhere. Given the limits and scarcity of other services and the trauma battered women have suffered, the effect of this practice in wife assault cases is equivalent to suggesting a patient go jogging immediately after major surgery.

Our informants stated that the attitudes of health professionals toward the issue of wife assault is shaped by training which is family or individual-oriented, socially non-interventionist, and usually focussed on the needs of children over the needs of their battered mothers. Unless specific policies and practices regarding treatment of battered women have been set up, their predicament and needs take second place or are invisible to the health practitioner. Some individuals do practice useful and sensitive intervention methods, but by and large these remain individual informal pratices and are carried out without the support of colleagues and policy.

Written policy, not unwritten rules or generally agreed-upon practice, ensures the continuation and expansion of good practice in each working area. Just as health policy and protocols have been developed for victims of rape and child abuse, so should they be extended to victims of battering. Hospitals, clinics, public health departments and so on should appoint working committees to develop such policy. Active consultation should be sought from community groups and individuals already working directly with battered women, such as transition houses and support services for battered women. Professional organizations in the health care field must undertake this work as well.

Social Services:

The mandate of social services ministries is generally to support the family unit and protect children. This mandate determines how work at the individual social worker-level is organized, including limits of the task, the priorities in terms of time and effort, the appropriateness of referrals to other agencies, the focus - through maintenance paymets - on shoring up the family as an economic unit, and the conditions for eligibility of certain benefits such as childcare.

Consequently a battered woman is no one's real responsibility; protection and assistance to a battered woman is not part of the job of social services ministries, unless social workers interpret it to be so because of the woman's status as a dependent who has lost her sole means of support, her husband, or because they consider her children to be at risk.

Policies designed to maintain the family and protect children often undermine the efforts of women to protect themselves and their children. Further, due to variations in policy interpretation, many essential services which a Ministry is capable of providing, such as childcare, and monies for furniture and clothing, are not always provided. The fact that no distinction is made between women who are battered and women seeking help for other reasons, brings a series of inappropriate policies to bear on the battered woman's situation, policies that can affect her safety.

Therefore, in British Columbia (as in many other provinces) the Ministry of Human Resources needs more specific consideration of battered women in financial and social service policy, and should develop and disseminate a battered women's handbook comparable to their handbook on child abuse/neglect.

Individual social workers may or may not be helpful to battered women - there is nothing which compels them to be. In B.C. many Ministry of Human Resources workers provide excellent assistance, interpreting policy as openly as they can and offering individual, empathetic service to the battered woman and her children. However, workers who do take such an interest do so at the risk of having to work to some degree at cross purposes to the Ministry. Other workers provide little individual service. This could be due to personal choice, stemming from their beliefs and attitudes about battering; or it might be a result of the way they, or their colleagues, interpret policy. Some, by carrying the mandate for protection of children to its extreme - assuming only the children are at risk - do harm to the battered woman by rendering her needs invisible and unimportant.

Therefore, there needs to be a comprehensive and intensive training program for social workers and financial aid and family support workers, aimed at increasing their awareness of the nature and severity of the problem of wife battering and helping to equip workers to intervene appropriately in battering situations. This program should offer: (a) assessment and interview skills specific to the situation and needs of battered women; (b) knowledge of protection needs and provision of a range of resources specific to battering situations; and (c) provision of appropriate referral information, especially regarding those services offered by community-based groups. The social services ministries should consult and contract with community groups such as B.C.'s Battered Women's Support Services, Toronto's Support Services for Assaulted Women and with transition and second stage houses for the development of this training program.

Furthermore, consistent support is needed for transition houses and second stage housing for battered women throughout Canada as well as for advocacy services for battered women within the ministries of human resources or social services. And the creation of line-worker positions specifically to work with battered women would help to solve the problem of battered women being "no one's real responsibility."

Legal Systems:

In order to put a discussion of legal protection for battered women into perspective, it is important to remember that in our society no one has the "right" to beat anyone according to Section 244 of the Criminal Code of Canada.

The law does not modify this statement relative to the relationship of the actors in an assault. When a man beats his wife he is committing a crime. However, in the legal system there are many levels at which the law, as stated in the Criminal Code, is interpreted and translated: the law is not applied simply as it is written.

In this section on the legal system, we see that all groups, from front-line workers, such as police dispatchers and constables, through to the final arbitors of justice, such as family and criminal court judges, apply discretion to interpret the law. Their views are often in conflict, resulting in serious consequences for those battered women who seek protection under the law. Furthermore, the amount of discretion allowed in interpreting the law has affected the development, over time, of the practices and policies that influence how workers in the legal system do their jobs.

In terms of protection for battered women, the way police function is of critical importance. The police have a responsbility to respond to wife assault calls quickly and clearly; to enforce the laws equally and without prejudice, using all of the means at their disposal. If they do not, the consequences are serious. Batterers will not be deterred from continuing their violent behaviour. Battered women will not be protected against further assaults. In fact, inadequate or inappropriate response by the police may actually exacerbate the violence.

From the perspective of the police, however, there are several factors which constrain their effectiveness in dealing with wife assault cases.

The procedures of classifying and priority-setting for wife assault calls are inadequate, resulting in non-response in some cases and in inadequate information for the responding officers in others. A central problem in this regard is the continued use of the imprecise generic term "domestic/family disputes."

When a team of constables does respond to a wife assault call, our informants suggest that non-arrest is the common practice. A major influencing factor in this practice is the interpretation of assault law as defined in the Criminal Code. The law is not considered by police to be readily applicable in many cases of wife assault. The statement of assault law may appear to be straightforward to a lay person. However, in practice, interpretation of the crucial term in the law, "bodily harm" has come to mean serious or severe bodily harm, which necessitates the use of discretion to determine severity or seriousness. (It should be noted that federal government proposals in 1981 to amend the Criminal Code would further obfuscate assault law by adding "serious" to the bodily harm provisions.)

For police officers, it seems, there are several considerations that influence their determinaiton of appropriate practice - even in those cases where there clearly is bodily harm. Our informants' comments indicate that the police try to read the mind of the woman involved: What does she want them to do? If assault charges are laid, will she follow through with them? Given the widely-held belief in our society - from which the police are clearly not exempt - that the family is a private institution, there is reluctance to intervene in a "family dispute." Lack of understanding of battered women's situations, and the attendant incorrect views that women deserve to be beaten and that it's easy for women to leave if they really want to, increase the reluctance to act against a batterer.

In addition, police training in crisis intervention can leave officers with the view that law enforcement is a secondary consideration, that their primary responsibility is to apply defusing techniques and "give both parties room." Such training is, in part, predicated on the exaggerated fear that wife assault cases are dangerous for police. Again the consequences are effectively permission for the batterer to continue his violence in the absence of deterrents, and no protection for the battered woman against further assaults.

If police officers seek to protect the battered woman, their recourse seems to be to remove her from the family home or in some cases to arrest the batterer for drunkeness when that is appropriate. These are admittedly, according to police officers themselves, ineffective actions, affording only minimal and limited protection for the woman. The effectiveness of these responses can be increased if they are accompanied by social service assistance to the woman. However, cooperation between police and social services is restricted: there are few cooperative programs and those that do exist are constrained by limited resources, policy restrictions and difficulties in balancing social service and law enforcement functions.

However inadequate police practice is in terms of protection for the battered woman, it is neither useful nor accurate to focus exclusively on how the police function. Police action policies cannot be divorced from the policies of actors at other levels of the legal system. The justice system does <u>not</u> give police officers the impression that wife assault is a serious crime.

Criticism of the criminal justice system <u>by its own members</u> was rampant throughout interviews with them for the Protection study. For example: criminal and family court personnel were critical of practices utilized in each other's setting; police were irritated with actions of other parts of the criminal justice system; justices of the peace did not always approve of judges' decisions; judges were critical of lawyers' actions in court, and so on.

Unravelling the process of laying charges in wife battering cases is a difficult task. The issues involved in laying a charge are many. The onus is on the woman to make the case. From locating the police report, to convincing the justice of the peace of the facts, to assuring court staff she will not withdraw charges, to producing evidence of bruises and other injuries, the system makes the woman responsible. During this process she may receive varying degrees of support from family court staff and she is likely to endure

further threats or beating from her husband. Informants said warrants for arrest of the husband were issued in about two thirds of the cases, but bail terms were usually granted immediately. Often the husband would be ordered not to have contact with his wife for the time between the bail hearing and the trial. However, the consensus is that restraining orders are virtually unenforceable, not worth the paper they're written on.

Unless a couple is divorcing, has been living common-law for less than a year, or the violence is severe enough to remove it from family court jurisdiction, wife assault cases are dealt with in the family court division of the B.C. provincial court rather than in criminal court. Counselling and support services were reasons why family court was considered the best place for handling wife battering charges. Others said these very services served to encourage reconciliation and to de-criminalize the assault that had brought the woman to seek protection under the law. Descriptions of the processes - of accepting the information, laying a charge, proceeding with a warrant or summons, holding a bail hearing, et cetera - all reveal that the most consistent effort of family court is to work towards protecting, if possible, the relationship between the woman and her batterer.

In the legal system a great deal of attention is focussed on the withdrawal of charges by battered women. Even though family court workers describe efforts to encourage women to consider the ramifications of laying charges, most see the withdrawal of these charges as a bad move by battered women. The contradiction here is in counsellors working to keep the family together, yet blaming women when they do withdraw charges. Unfortunately, the possibility of the woman withdrawing charges is often used as a reason for not accepting charges in the first place - one of many Catch-22 situations in the system.

Probation with a suspended sentence, or a conditional discharge were the most common sentencing decisions described by informants. Again, the possibility of reconciliation is raised as a reason why most wife-beaters were not sentenced to any kind of jail term.

If a husband breaches his sentence, which supposedly occurs in about one out of every 20 cases, the wife has to inform the probation officer or police. The possibility of any acquiescence in the breach on the part of the woman is examined before the breach charge is accepted. Offering protection to women in cases of breach is problematic. Police said they are seldom sure if the breach was legitimate, and had problems ascertaining the

current status of any restraining order the woman might show to them. Husbands who breached without further excessive violence were generally told by the courts simply not to do it again or they would be jailed.

Many comments made by informants suggested that women who feel strongly about getting legal protection for themselves are viewed as mean or neurotic. Conversely, women who withdraw charges, or continue to live with their husbands, are seen as passive victims.

In order to make practical recommendations about providing adequate protection for battered women, the Research Centre developed a model of practice to address the current problems in the criminal justice system. We then interviewed representatives of the system to get their perspectives on the changes we proposed. We want to review these changes for you and the comments on them by our informants. (The proposed model for providing protection for battered women is included in Appendix I.)

Working from the assumption and experience that in most cases the use of discretion operates against affording protection, discretion was eliminated from the model as often as possible. Therefore, included in the model are a mandatory response from police officers, mandatory arrest in certain situations by police officers, elimination of the discretion to lay charges by the justice of the peace, and required mandatory minimum sentences for battering.

When statute laws were considered, the Criminal Code was reviewed to discover areas where analogous requirements for other offenders existed. By doing this, the model tends to present methods for dealing with batterers that are already known in our present system. For instance, there is an analogy between batterers and drunk drivers as both representing dangers to society, so the suggestions made for penalties for batterers are similar to those for drunken driving. Similarly, for bail hearings, the process used to determine whether drug offenders should be released on bail was reviewed and the criteria for release extrapolated and applied to batterers.

In some cases, such as the concept of a central registry, existing systems - in this case C.P.I.C. (Central Police Information Centre) - were extended to cover those types of orders most frequently breached by batterers. This was done in response to consistent reports from battered women, lawyers and police about police difficulties in dealing with or responding to breaches of orders.

In terms of existing law, the most "revolutionary" aspects of the model deal with the imposition of bail terms on the batterer when there has been no warrant issued, and mandatory detainment until trial under certain circumstances. Imposition of bail terms was included because interview pre-tests indicated that in B.C. since the Polglase decision, judges in family court needed a mechanism for dispensing civil remedies now reserved for Supreme Court. The provision for mandatory detainment was included because it seemed clear enough that anyone who had flaunted a previous court order should be detained. Moreover, in many situations it was usual for judges to detain the accused if he had committed a breach of a previous order - it was simply uncommon in family cases.

Five specific areas of the model drew wide and solid support from legal informants for the Study of Protection. These were: mandatory response from police; the central registry; the mandatory arrest (with criteria); all parts of the non-arrest option except for the removal of discretion from the justice of the peace; and the show cause bail hearing.

Informants were evenly split over the suggestions of having all wife assault cases heard in criminal court, with the negative responses based on the knowledge that family court presently offers more appropriate support to the accused and the victim. Clearly it should be possible to afford such support services in criminal court.

Qualified to outright support for the suggestion of minimum and graduated sentencing was received from the vast majority of informants. Some offered variations and more specific conditions under which such sentences could be imposed.

This degree of general support offered by informants for the proposed model of protection, and the willingness to entertain at least some change in the current practice, is a positive indication of a readiness to consider more effective ways of working to protect battered women. Although some informants were entrenched in their opposition to various parts of the model, the overall sense from informants is one of a need for change.

Clearly one over-riding action that is required is direction from the federal Minister of Justice and the Solicitor-General (as well as provincial attorneys-general) to workers in the system that the Criminal Code's assault provisions do, in fact, apply to wife assault cases. Further, the Departments of the Solicitor-General and Justice should revise programmes and policies

to counteract the current diversion of wife assault cases from the criminal justice system. The Department of the Solicitor-General should also revise RCMP training in crisis intervention techniques and balance it with additional emphasis on law enforcement in wife assault cases.

The changes we propose will not only protect battered women, but will allow the criminal justice system to work more effectively with the difficult problem of wife battering.

In Conclusion:

In addition to the changes we have proposed in this brief and in A Study of Protection for Battered Women relating to the criminal justice system, the health care and social services systems, we recommend that the committee act on the proposals put forward in the January 1982 brief of the Canadian Advisory Council on the Status of Women (which are consistent in large measure with those of the Ontario Association of Interval and Transition Houses). Specifically these are:

1. That the federal government create a fund for transition houses and other organizations to continue and expand their work on wife battering. Such a fund would provide start-up grants for transition houses, supplemental programmes in transition houses, and programmes developed by women's organizations to respond to the needs of battered women. After the creation of such a fund, further work should be done to establish an alternate funding mechanism for transition houses and other services to guarantee a consistent system of adequate and secure financing.
2. a) That the federal government's position in all negotiations concerning the constitution and/or fiscal transfer or cost-sharing programmes reflect the principle that there be no residency requirements for access to social services.
   b) That the jurisdiction for divorce and related court orders remain with the federal government, with the exception of Quebec.
   c) That the federal government accept the goal of integrating the collection of support and maintenance into the income tax system, and immediately begin a study to determine the logistics of implementing this goal.

3. a) That training and information relating to wife battering be expanded in all RCMP training programmes.

   b) That the procedures for making assignments to local RCMP detachments be reviewed with the goal of stabilizing the composition of local forces in those areas currently facing high turnover rates.

As we noted earlier, this committee is fortunate to have received a wealth of information and generally consistent advice from women's organizations and individuals with extensive experience and demonstrated expertise on the issue of wife assault. It is not possible to solve quickly all the problems battered women face in our society. However, this committee can begin the work by acting on the practical measures that have been presented to it to make protection and support for battered women a reality.

APPENDIX I

A MODEL FOR PROVIDING PROTECTION FOR BATTERED WOMEN

Call to Police Station

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Mandatory Response from Police
(no discretion in dispatcher to ignore call; all calls to be answered on a priority basis by police officers)

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Central Registry of restraining orders, convictions, peace bonds, no contact orders, information on circumstances of previous charges

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Mandatory Arrest by Police Officers in cases where there is:

(1) Any bodily harm to the spouse (including bruises)
and (2) The situation is likely to re-occur
or (3) There are any prior convictions of the spouse for assault, any current restraining orders, no contact orders, peace bonds or any probation orders

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Show Cause Bail Hearing

1. Onus on accused to show that violence not likely to re-occur - counselling option for first offender
2. Accused must show that he is likely to appear for trial
3. No bail for second charges or for spouses who violate civil restraining orders, no contact orders, peace bonds or terms of conditional discharges or breach of any probation orders

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Trial

- Charge tried criminally - no diversion to Family Court
- Charge of assault bodily harm whenever there are bruises, black eyes or any other forms of bodily harm → **Mandatory minimum prison terms for bodily harm** (no conditional discharges):
  - First Offence - 30 days
  - Second Offence - 90 days
  - Third Offence - 180 days
- Eliminate peace bond in battering situations
- Minimum and Graduated Sentencing (no conditional discharges)

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Minimum Sentences for Common Assault:

First Offence - fine and probation terms (no contact order, etc.)
Second Offence - 30 days imprisonment and probation terms
Third Offence - greater imprisonment and probation terms

Breach of Probation

1. Mandatory arrest
2. No bail until trial

Non-Arrest Option (only in cases not covered by Mandatory Arrest policy)

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Police officers to advise woman of her rights to civil and criminal remedies, of legal aid offices, Transition House number, and how and where to lay a charge

↓

Unannounced check backs by Police

↓

J.P. no discretion - Justice of the Peace must issue process

↓

Bail terms set (including no contact order, exclusive possession of matrimonial home to victimized spouse

↓

Bail terms recorded on Central Registry

↓

If bail terms broken, imprisonment until trial

HOUSE OF COMMONS

Issue No. 29

Thursday, February 18, 1982

Chairman: Mr. Marcel Roy

Minutes of Proceedings and Evidence of the Standing Committee on

Health, Welfare and Social Affairs

RESPECTING:

Inquiry into violence in the family

WITNESS:

From the Women's Research Centre, Vancouver:
Ms. Jan Barnsley.

First Session of the
Thirty-second Parliament, 1980-81-82

MINUTES OF PROCEEDINGS

THURSDAY, FEBRUARY 18, 1982
(33)

[*Text*]

The Standing Committee on Health, Welfare and Social Affairs met at 9:40 o'clock a.m., this day, the Chairman, Mr. Marcel Roy, presiding.

Members of the Committee present: Messrs. de Corneille, Elzinga, Frith, Halliday, Howie, Mrs. Killens, Miss MacDonald, Mr. Marceau, Mrs. Mitchell and Mr. Roy.

In attendance: Ms. Mildred J. Morton, Research Officer, Library of Parliament.

Witness: *From the Women's Research Centre, Vancouver*: Ms. Jan Barnsley.

The Committee resumed consideration of its Order of Reference dated Friday, February 13, 1981, relating to the study of violence in the family. (*See Minutes of Proceedings, Monday, January 15, 1982, Issue No. 23*).

Ms. Barnsley made a statement and answered questions.

It was agreed,—That the document entitled "A Brief on Wife Assault and Protection for Battered Women", presented by the Women's Research Centre be printed as an appendix to this day's Minutes of Proceedings and Evidence. (*See Appendix "SNTE-10"*).

It was agreed,—That the following reports submitted by the Women's Research Centre be filed with the Clerk of the Committee as exhibits:

—*The Social Organisation of Family Violence: An Ethnography of Immigrant Experience in Vancouver* (1978) (*See Exhibit "SNTE-5"*);

—*"Battered and Blamed": A report on wife assault from the perspective of battered women* (November 1980) (*See Exhibit "SNTE-6"*);

—*A Review of Munro House: Second Stage Housing for Battered Women* (December 1980) (*See Exhibit "SNTE-7"*);

—*A study of Protection for Battered Women* (January 1982) (*See Exhibit "SNTE-8"*).

Questioning of the witness continued.

At 11:15 o'clock a.m., the Committee adjourned to the call of the Chair.

PROCÈS-VERBAL

LE JEUDI 18 FÉVRIER 1982
(33)

[*Traduction*]

Le Comité permanent de la santé, du bien-être social et des affaires sociales se réunit aujourd'hui à 9h 40 sous la présidence de M. Marcel Roy (président).

Membres du Comité présents: MM. de Corneille, Elzinga, Frith, Halliday, Howie, Mme Killens, Mlle MacDonald, M. Marceau, Mme Mitchell et M. Roy.

Aussi présent: Mme Mildred J. Morton, attachée de recherche de la Bibliothèque du Parlement.

Témoin: *Du «Women's Research Centre», de Vancouver*: Mme Jan Barnsley.

Le Comité reprend l'étude de son Ordre de renvoi du vendredi 13 février 1981 portant sur l'étude de la violence dans les familles. (*Voir procès-verbal du lundi 15 janvier 1982, fascicule no 23*).

Mme Barnsley fait une déclaration et répond aux questions.

Il est convenu,—Que le document intitulé «*A Brief on Wife Assault and Protection for Battered Women*», présenté par le «*Women's Research Centre*», soit joint aux procès-verbal et témoignages de ce jour. (*Voir Appendice «SNTE-10»*).

Il est convenu,—Que les rapports suivants soumis par le «*Women's Research Centre*» soient déposés auprès du greffier du Comité comme pièces:

—«*The Social Organisation of Family Violence: An Ethnography of Immigrant Experience in Vancouver*» (1978) (*Voir pièce «SNTE-5»*);

—«*Battered and Blamed*»: *A report on wife assault from the perspective of battered women* (novembre 1980) (*Voir pièce «SNTE-6»*);

—*A Review of Munroe House: Second Stage Housing for Battered Women* (décembre 1980) (*Voir pièce «SNTE-7»*);

—*A Study of Protection for Battered Women* (janvier 1982) (*Voir pièce «SNTE-8»*).

L'interrogation du témoin se poursuit.

A 11h 15, le Comité suspend ses travaux jusqu'à nouvelle convocation du président.

Le greffier du Comité

Audrey O'Brien

Clerk of the Committee

EVIDENCE

(Recorded by Electronic Apparatus)

[Text]

Thursday, February 18, 1982

• 0940

The Chairman: I see a quorum. The committee resumes consideration of its study of violence in the family.

Today we are going to have two meetings, a morning session with Jan Barnsley from the Women's Research Centre, and evening session at 8 p.m., in the same room, with Judy Erola, the minister responsible for the status of women.

I will now ask our witnesses to make their opening remarks and then we will proceed to the questions. Ms Barnsley.

Ms Jan Barnsley (Women's Research Centre, Vancouver): Thank you, Mr. Chairman.

The Women's Research Centre is pleased to have the opportunity to make a presentation to this committee. Although wife assault is a difficult issue, this committee has been fortunate to have received to date very thoughtful, accurate and consistent advice. We draw attention in particular to the briefs from the Canadian Advisory Council on the Status of Women and from the Ontario Association of Interval and Transition Houses.

These presentations, as well as that of the minister responsible for the status of women, provide an analysis of and background information on the problem of wife battering that is a prerequisite for understanding and dealing with the issue.

We would also refer the committee to the women's research publications on wife assault, specifically *Battered and Blamed*, a report on wife assault from the perspective of battered women, and *A Study of Protection for Battered Women* which is our most recent research on the subject.

Protection against further assaults by their husbands is a major problem facing battered women. I appreciate that not all members of this committee will have the time to read our full report on protection, therefore the centre's formal brief to this committee is a distillation of much of the information provided in that report. Today, because I believe the committee has not yet discussed the problem in detail, I want to talk about the need for changes—specifically in the criminal justice system—that are required to provide better protection for battered women. Then I would like to try to answer any questions you might have concerning wife assault in general.

Although many aspects of the criminal justice system are not under federal jurisdiction, in order to appreciate the difficulties battered women face, I think it is necessary to review briefly how that system functions at the local level. I should point out that attention must also be paid to the health care and social services systems because they too have a significant role to play in providing more adequate protection for battered women. Again, I refer the committee to the report and our formal brief, both of which also deal with health care and social services issues.

In our research on protection, we interviewed family court judges and counsellors, justices of the peace, police, criminal and supreme court judges, Crown prosecutors and so on, to try to get their perspective on how the criminal justice system works. The picture that emerges from their accounts shows the maze-like quality of the system that has long been a major source of frustration to battered women themselves and to transition house workers and others who seek to help battered women.

• 0945

From what our informants told our researchers, it is a wonder that any battered woman has ever received any protection under the system; it is a wonder that any batterer has ever been prosecuted and received a sentence befitting his crime. The clear message the criminal justice system gives is that wife battering is not a serious matter. It is possible to understand, to some degree, at least, why various aspects of the system function as they do, but there can be no excuses and no justification for maintaining the system as it is.

One might expect that the system would be consistent with the law. This is not the case. Section 244 of the Criminal Code of Canada, as you know, makes it clear that no one has a right to beat anyone. The law is not modified relative to the relationship of an assailant to his victim: when a man beats his wife, he is committing a crime. However, in the criminal justice system there are many levels at which the law, as stated in the Criminal Code, is interpreted and translated. The law is not applied simply as it is written. Discretion is applied to interpret the law by workers at all levels of the system, from police dispatchers and constables through to judges. Their views are often in conflict. Many do not seem to know how other aspects of the system work. They often disagree with each other's decisions. Unfortunately, it is battered women who try to use the system to get protection who suffer serious consequences as a result of such confusion.

I want to give some illustrations of how the system works. I will begin with police practice, and then talk about what women encounter when they try to lay assault charges and touch briefly on what kinds of sentences batterers can expect to receive if they are convicted.

When a call about wife assault is made to a police station, the police telephone operator will, it seems, classify the call as a domestic or family dispute. This vague generic term encompasses eight types of disputes. A domestic dispute could mean anything from a fight between two armed neighbours to a landlord-tenant shouting match, from a woman being beaten by her husband to an argument between friends. Little, if any, clarification or information other than that designation, domestic dispute, is passed on by the dispatcher to the police constables who are sent to respond to the call. So the constables are largely unaware of what kind of domestic dispute they will find. This lack of information, and the exaggerated but widely quoted statistics on the danger to police in answer-

[*Text*]

ing wife battering calls, may account in part for police reluctance to respond at all.

When the police do respond, their training in crisis intervention, their lack of faith in the rest of the criminal justice system to follow through, their interpretation of the law and their views of the family as a private institution add up to an inadequate response. Many tell battered women there is nothing the police can do. They do not arrest batterers in part because they do not interpret the assault—bodily harm provisions of the Criminal Code to give them that authority and in part because they are trained increasingly not to arrest but rather to cool things out and give the parties room.

Further, from what they told us they try to read the mind of the woman involved and usually conclude she does not really want to follow through with assault charges—perhaps, one might suggest, because they do not believe it is proper for a woman to charge her husband.

Police officers are not unlike the rest of us in that they lack understanding of wife battering. However, police do have something in common with battered women themselves, and with transition house workers and others who work with battered women. What they have in common is a frustration with the legal system.

I want to read for you two accounts from battered women that illustrate some of the obstacles that stand in their way when they try to use the legal system to lay assault charges.

In the first example, it took the woman four days of following the instructions of various legal professionals before she could lay a charge against her husband who had attempted to murder her. She said:

> On Saturday [the day after the assault] I went down to the office of the Justice of the Peace and they said to come back the next day as they had no police reports yet. I told them I had the police report case number but they said they couldn't do anything without the report.
>
> On Sunday I called the J.P.'s office and got a helpful woman J.P. who told me not to come down but to go straight to the crown counsel on Monday morning—because of the seriousness of the charge. On Monday, I went to the crown counsel and he told me that my charge would have to be laid in family court because the man was my husband. He said it would only be a charge of minor assault
>
> • 0950
>
> We waited an hour and then got in to see a family court counsellor. I told her what happened as she wrote it out for the justice of the peace. Then she got the police report that had arrived and gave this with her information to the J.P. He interviewed me and my social worker, and again I went through what had happened. I told him I was frightened and wanted a restraining order against my husband. The J.P. had read the police report and he said that 'the police did not view this as a very serious incident.'
>
> The justice of the peace had me swear out two informations and had a warrant for my husband's arrest drawn up. He explained how serious the charges of assault and threatening were, and said my husband would be put in jail, then let out on bail and then we would have a court hearing. I said I was worried about getting hurt by my husband, especially if he was arrested and then let out. He said that 'usually a no contact order is made in such cases' but he could not guarantee this in my case. He said he would try to notify me if my husband was picked up.

Another woman had been tied up and raped by her husband. She had lost consciousness twice; by the way, she did have a restraining order against her husband. Restraining orders are supposed to protect women against further assault. Her account exemplifies the confusion, stalling and disrespect that many battered women have experienced in dealing with the criminal justice system. She told us:

> I was amazed that the police report was so short. They told me to go to family court. My lawyer refused. They said, 'Go downstairs then.' The man at the desk downstairs would not accept the charge, he said there was no proof. I had on a turtleneck sweater— typical for a battered woman, hiding the marks. Nothing was done. I went to family court; they said get a doctor's report. Then back to family court. I saw a counsellor who said, 'Why are you seeing me? You should see the J.P.'

Once this woman saw the family court counsellor, it took only half an hour to lay a charge of breach of a restraining order. She went to stay at a transition house, and workers there advised her to go back to the police and have pictures taken of her injuries. The police, after discussion with her, decided the case looked like attempted murder and not just breach of a restraining order. They put her through a polygraph test, then sent her to the Crown prosecutor who argued with her and made the woman feel she had to defend herself, not only against her husband but against the prosecutor's questioning.

Countless battered women have had similar experiences to these. There are many excuses put forward by legal officials to account for battered women's difficulties in trying to lay charges and obtain protection. One police officer suggested that "it would lead to a breakdown in the marriage" if a batterer were charged and put away.

A similar apparent defence of the sanctity of marriage, which in fact is a defence of batterers, is the excuse that a

[*Text*]

batterer should not be charged or sentenced to a jail term because he is likely never to batter again. Research shows that battering is rarely an isolated incident. It recurs, largely because it is allowed to. Few, if any, sanctions are imposed against it. These excuses simply make visible the basic premise of the justice system's current practice. Wife battering is not seen to be a serious crime.

Other excuses include civil liberties arguments put forward to protect the right of the accused. While civil liberties are clearly important, our research shows that an imbalance exists which gives undue precedence to an accused's rights over the rights of battered women to be protected against the crime of wife assault.

Many officials in the justice system suggest the system is all right and they lay the responsibility for lack of protection on battered women themselves. For example, police officers contend that charges are laid four or five times and then dropped by the woman. Judges and prosecutors tend to agree with this statement. There is no doubt that some battered women do withdraw charges against their husbands.

One obvious reason for a woman to withdraw or reconsider laying a charge is the ineffectiveness of the justice system itself in protecting her if she proceeds with charges. Also, many women have indicated they are told by police, prosecutors, justices of the peace and so on, that they should not lay charges against their husbands. Further, many women withdraw charges out of fear of retribution by their husbands, his threat, pressure from family or friends, or lack of information about what to expect from the system.

• 0955

Lawyers we interviewed indicated that the husband's lawyer in a wife assault case, or even the woman's own lawyer, may successfully pressure the woman to drop assault charges in order to proceed with the civil matters such as division of family assets, which are the more lucrative aspects of a lawyer's work.

Some justice system officials said they can understand why women sometimes withdraw charges. However, many others characterize women who drop charges or return to their husbands as passive, neurotic, helpless or masochistic. Significantly battered women who do use the court process to seek legal redress and protection, are also described in similar ways as neurotic, obsessive, pathological, vindictive, vicious, mean, or having a personal vendetta against her husband. This is an ultimate catch-22 situation. It seems the battered woman cannot win, no matter what she does.

In large measure these characterizations stem from the view of many legal officials, that wife assault is not really a crime. The inability of actors in the justice system to understand wife assault and battered women situations does determine the response of the legal system to women's need for protection.

It is in reviewing what happens when a batterer is charged and convicted that this lack of understanding of wife assault and disrespect for women's situations becomes most clear. The most common sentencing decisions known to the people we interviewed were probation with a suspended sentence, or a conditional discharge, which means that if the accused complies with the conditions such as a restraining order or no-contact order, he will not get a criminal record.

One of the possible explanations for these light sentences is that in wife assault cases there is a tendency to reduce the charges from, for example, assault causing bodily harm, to the lesser offence of common assault.

In part this is an indication of the fact that when a woman is assaulted by her husband, it is not considered to be as serious as an incident of stranger-to-stranger violence.

In B.C. where the current practice is to divert wife assault cases to family court, the level of the charge is adjusted to reflect the court's jurisdiction. According to a justice of the peace at family court, for example, a wounding charge, which is more serious than assault causing bodily harm, would usually be reduced to assault causing bodily harm because in his words, "We do not usually take wounding charges here at family court".

A social worker told us that they had a woman who was strangled, who was badly beaten up; she had a restraining order, everything, and the Crown had called it common assault. She said they had to work very hard to get the charges raised to attempted murder. The social worker felt, and we agree, that family court charges are seen as a way to provide a counselling service, not a legal end in themselves, and that keeping families together is seen as more important than making criminal charges to protect the woman.

Whether or not reducing charges is the explanation for suspended sentences and conditional discharges, these dispositions are not adequate to protect battered women from further assaults. A battered woman who had been repeatedly harassed and threatened by her ex-husband said that a police officer told her that restraining orders, legal separations and court orders were not worth the paper they were written on; that the courts will not enforce them. The police could arrest a man for breaking and entering into his ex-wife's home and when they get to court the charge will be dismissed because she is still his wife. The woman suggested that this is why the police are, in her words, "so lackadaisical": it is not followed up when it gets to court.

A police officer we interviewed complained about sentencing practices and remembered the following horrifying example of a man who had been convicted previously of assaulting his wife. He said:

There was a man caught last summer. In family court some time ago he had been convicted of an assault, and some kind

[*Text*]

of sexual assault. It was really awful. This time he strapped *her down and put a knife in her vagina; she died. He had* been drinking. He was convicted of manslaughter, not murder, and given one year's probation and a restraining order from driving a car, apparently because it was decided the man had an alcohol problem.

Inadequate sentencing, in addition to endangering battered women, also affects the practice of those who work in the legal system. The police officer I quoted a moment ago summarized the problem. If the system is not just, you will not find it respected by those at whom it is aimed, or enforced by those to whom it is entrusted. To remedy the situation, at least in part, and to make the system more just, we recommend implementation of the proposed model of protection which is included in the brief I have tabled for this committee's consideration and is discussed in detail in a study of protection for battered women which I have also tabled.

• 1000

This would involve a mandatory response by police to wife-assault calls which would require, among other things, changing the domestic dispute classification that is now widely used by telephone operators and dispatchers; secondly, a mandatory arrest policy according to guidelines more consistent with the Criminal Code, with the non-arrest option to be used when necessary.

A central registry of restraining orders and peace bonds, et cetera, would facilitate police enforcement of those orders and provide the police with information that would make their work safer and more effective. A reverse onus provision is required in show-cause bail hearings to determine whether the accused batterer should be released on bail. There should be no diversion to Family Court for assault charges, but rather such charges should be heard in criminal court. Finally, a scheme of minimum and graduated sentencing, with no conditional discharges. The generallly positive reaction to these proposals by the people we interviewed for the protection study: People who work in the legal system suggest that change is possible.

One additional recommendation is that the federal Minister of Justice and the Solicitor General take whatever steps necessary to simply make it clear to workers in the legal system that the Criminal Code's assault provisions do in fact apply to wife assault cases. The department of the Solicitor General should issue directives to counteract the current practice of diverting wife assault cases from the criminal justice system.

For those people who believe that recommendations do not do any good, I should point out that the Law Reform Commission in 1976 encouraged the policy to screen out domestic disputes from the criminal process. That recommendation has been so successful that not only the police but all other aspects of the legal system seem to be acting on that recommendation.

Further, the Department of the Solicitor General should revise RCMP training in crisis-intervention techniques and balance it with additional emphasis on law enforcement in wife assault cases.

In conclusion, it is essential to note that changing the criminal justice system alone is not enough. The research centre endorses the recommendations contained in the briefs by the Canadian Advisory Council on the Status of Women and the Ontario Association of Interval and Transition Houses. In addition, specific protocols for wife assault cases, such as those in place for child abuse, must be developed for health care and social services systems. I refer you again to the centre's brief and the protection report for details. The federal government must play a leadership role in negotiating with the provinces on these matters.

Further, women's economic dependency in our society is a major barrier to women trying to escape from battering situations. The advisory council's recommendation on maintenance payments is a positive step in addressing this problem. Also, transition houses, as well as other support services for battered women, must be seen as essential services and funded accordingly. Again, I refer you to the advisory council's proposal.

Finally, as Simone de Beauvoir once said, and I paraphrase: I do not care what people think; it is how they behave that matters. I urge this committee to resist any tendency, however idealistic, to focus on attitudinal change as a solution. It is action that is needed. Practices and policies can and must be changed to deal more effectively with wife assault in Canada. Thank you.

The Chairman: Thank you very much. We will now proceed to the second part of this session. I will recognize Miss Flora MacDonald and Mr. de Corneille.

Miss MacDonald: Thank you very much, Mr. Chairman, and may I say to Ms Barnsley that we very much appreciate her excellent presentation.

As we listened to it, I suppose one of the things that concerns us is the accumulation of evidence we hear which brings into better focus the magnitude of this problem and the difficulties there are in trying to cope with it. You have addressed these very realistically.

• 1005

We have to move on a number of fronts. It would be great to think that we could do it all simultaneously, but that may not be possible. I wonder if you can distinguish for us where you would place the most immediate priority in trying to have the general public and the various enforcement agencies come to grips with this question of wife battering. Would you see

[*Text*]

greater emphasis being placed on strict enforcement of the criminal justice system? Would you see better police training to handle the problem? Would you see more research being done into it and brought to public attention through the media? Would you see a larger number of transition houses and other support services? Would you see any of these as having a priority over any of the others?

Ms Barnsley: Yes, I think I would have two priorities.

First of all, in terms of background it is important to know that the initiative for taking action on this issue has come from women at the community level. Long before it was publicly recognized as a problem, it was women who organized transition houses and other kinds of support services for women, and I think those services, as I said, are essential and have to be supported. I know that Debra Lewis and the Advisory Council's proposals gave a lot of information about the inconsistencies that exist in terms of support for those services, so I think that has to be the first priority. They are the ones who are providing the direct, practical assistance to women in crisis, and that has to be the number one priority.

In addition, I know that many of those groups, and groups like my own, are working with actors in the criminal justice system. I personally have done a couple of training classes for police recruits in Vancouver. I know that this work is going on across the country to try to help them change their practice. They are the front-line workers and they take a lot of flak; and I think, as I pointed out today, that a lot of their work is conditioned by the way the rest of the system operates, and they are as frustrated with it as I am, for example.

I think there have to be directives within the departments that change practices. Awareness is important, and clearly attitudes have an effect on the way people do their jobs, but solid policies and practices that outline workable and straightforward guidelines for police and other workers in the system can go a long way toward improving attitudes. As I said at the end of my informal remarks, it is important to change practices now. Attitudes will follow, I think.

Miss MacDonald: You mentioned that in many cases the initiative, even the timid steps that have been taken toward changing the approach to wife battering, has come from women at the community level. We have paid great attention to the report of the Advisory Council on the Status of Women and their suggestions, but do you have anything specific that you would want to add to that? Is it a question of better funding for these groups, of more emphasis on transition centres being established? Coming out of your experience in Vancouver, what would you really like to see at the Vancouver level? If you had your druthers and could have something happen in Vancouver tomorrow, at the community level, what would it be?

Ms Barnsley: Clearly, more transition houses. We are very fortunate in Vancouver in that the transition house that exists there has, I think, one of the largest staff complements in the country. It is staffed 24 hours a day, has two child-care workers, and a lot of support from the community. So far, most of the workers are women who have, as did the original group that started it, life experience that prepares them to deal with wife battering and to be of assistance to battered women. They are not professionals.

• 1010

I think there is a growing tendency in the country to professionalize this service and to suggest that you need therapists and trained counsellors or social workers to staff transition houses, but I think that is inaccurate. I think the vast majority of houses outside of Vancouver are understaffed. I know that it is not unusual for a transition house to have two staff people and one on-call worker; they try to manage the house 24 hours a day and answer all the crisis calls.

I think additional funding is needed for most houses. There are houses developing in different parts of British Columbia at quite a fast rate, but it is usually assumed that if you have one in a community, that is enough, and I think that is not true.

The second point is that second-stage housing is essential. We have done a study of Munroe House in Vancouver, which is second-stage housing for battered women and it is quite clear that many women do need the additional time of staying at a second-stage house to sort out some of the very complicated legal problems, to begin job retraining, to help their children to cope with the effects of battering on them—there is a whole range of problems they have to deal with. I think second-stage housing is essential.

The third thing would be support services. There are two groups that I know of: in British Columbia, Battered Women Support Services, of which I am also a member, and in Toronto, Support Services for Assaulted Women. They try to do support group work for women who either are still in their marriages and simply want to improve the marriages by being able to cope better with them, and hopefully get their husbands to stop beating them, and also for women who have left their marriages and still want to deal with the effects of being battered on their own lives.

I think there is a range of services that has to be supported and, again, the proposal that there be some federal funding program explored until the service is established across the country as the necessary service it is. The proposals outlined by Debra Lewis in the Advisory Council brief, I think, are solid ones and should be paid attention to.

Miss MacDonald: This is more by way of a comment than a question, but I make it because it comes from a discussion that

[*Text*]

I had with a woman who lives in a suburban community outside of Vancouver. She had called the police as a result of battering by her husband and the concern that she had for herself and her children. She got in touch with the police station to say, what can I do, as so many women not knowing where to go or what to do will turn to the police. She was advised to move out. Her question was: But where? The police said they could not help her. She knew nothing about transition houses and neither did the police whom she turned to and was in a very difficult position.

I wonder whether in that range of support services there should be money set aside for more education throughout the broad community than we have at the present time, to try to overcome this lack of knowledge that both officials and women have about where they can turn. So many people, even in my own constituency of Kingston are almost totally unaware of Interval House and what it can do in that community.

Ms Barnsley: I know that the difficulty with lack of adequate funding for transition houses is that those workers who are in fact the experts in dealing with this issue are often unable to do the educational work that they want to do, and this has led in large part to the development of other kinds of organizations, such as Support Services for Assaulted Women and so forth, who take on some of the educational work in addition to running support groups.

I think it is also true that under the current system, even if the police all knew precisely where to refer women, there would still be problems. For one thing, we are exploring in Vancouver now the possibility of developing cards that simply can be handed out by the police officer. The Car 86 program, which is a joint program between the police and the Ministry of Human Resources. When a social worker and a constable respond to domestic dispute calls, they have that kind of information available. The idea would be to make it more widely available to police officers, so that they could easily and quickly give out that information. They are under time constraints themselves.

• 1015

The other point, though, is that even with the services that exist the ultimate advice to a battered woman is that, if she really does want to be protected from a husband who is harassing her after he has been charged or they have divorced or whatever, she does have to move to a different city and change her name. That is a sad comment on the way the system works today.

The Chairman: Mr. de Corneille.

Mr. de Corneille: First of all, I would like to observe that your testimony has provided to us, I think, a very comprehensive basis to understand the interplay of all these factors. It is one of the most helpful pieces of testimony that I have heard. It helps because you have also cited examples in real- life situations of how an individual, who is the victim, is shuffled from place to place and treated in such a way you could feel almost that she was the one who was obviously the criminal rather than the victim. This is the tragedy of this whole subject.

You vividly brought to our attention in your testimony not only that but also a sense of the fact that we have a situation where we have been developing a concern to rehabilitate the criminal in our system but, in the process, have somehow forgotten the victim—what our responsibility is to that person or to those people.

I would like to thank you so much for your testimony and what you have been sharing with us because of your expertise. Giving us the priorities you have outlined is also very helpful.

It seems to me that one of the problems you have indicated is that, in the process of trying to move away from the idea of punishing criminals and putting them away, which is expensive and wasteful and destructive and reinforces violence, our system has tried to move towards trying to rehabilitate people, not for their sakes only but for the sake of society. So, in the process of trying to do this, obviously we can err in the direction of being too concerned about moving people to dialogue and to try to reclaim their marriages and counselling, which is obviously a very good thing. But in this particular case, and perhaps in others as well—I am thinking also of battered children—the people such as wives and children in violent situations can, in fact, be subjected to grave danger, to brutal punishment and to severe, tragic and unfair situations.

My question is: How do we sort this out? Obviously, in the criminal system you are saying that, when these cases go to the family courts and so on, they are downplayed. The emphasis moves more towards trying to see if we cannot bring these people together, to reconcile them. Also, lawyers may find it is valuable to look at the side of trying to bring about legal separations over due course and so on, and divorces.

This temptation, then, means that the system has already a very clearly built-in premise that it is trying to heal; yet, there are these emergency situations and situations which are more fundamental which cannot be healed or should not be healed.

• 1020

I wonder if you could say something about how one sorts this out, because obviously we are working against well-meaning people—you are and we are—when we are trying to help the battered wife, and to protect her and the battered child. We are working against well-meaning objectives and well-meaning people. The system has been built towards trying to move in a more humane direction, but the process is bringing about terribly inhumane and cruel results. The wife is, in effect, made to look like the criminal; the battered one, the victim, is victimized. And the victimizer is, in fact, the one who is the object of our concern to help and rehabilitate and so on.

How does one get around this fundamental approach problem in the criminal system? How can we find ways to convince those, when we are talking to them, that there are areas where this needs to be corrected? Exactly where can we put a finger on it more precisely?

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Ms Barnsley: It is difficult. I think that there are many groups who have tried—largely at the urging of battered women themselves—to develop programs for batterers, outside of the criminal justice system; support groups and therapy groups. So far, they have been ineffective. The more effective programs seem to have taken place in the United States. There are two articles to which I can refer your researcher, so that you can have copies. But Anne Ganley and Lance Harris, in Tacoma, Washington, and two other people in the United States as well, have developed programs.

Mr. de Corneille: May I interrupt you for a second. I was not concerned in this question about asking how can we help the criminal. I was indicating that the problem is that the system is trying to focus so much on helping the criminal that it, in fact, prevents us from being able to get the proper accusations laid, and the proper protection for the victim. And while I sympathize very much with the need to rehabilitate the criminal—I do not believe in only a punitive system—there are those who, for well-meaning purposes, in other words, try to rehabilitate the criminals. We find, though, in this situation, that in doing that we are reducing the charges and hindering or hurting or endangering the very lives of the people who are victims. So one has a system that is aiming to try to bring about a more humane approach to criminals, standing in the way—all for very good reasons—but standing in the way, though, of protecting the battered wife.

What I was wondering was, how does one find a way to convince those who are trying to bring about this rehabilitation system for criminals to realize that this system can be very hazardous? And how do we help the battered wife, while still maintaining a modern and a rational approach to try to rehabilitate criminals?

Ms Barnsley: The counselling programs that I was referring to are court ordered. They are part of the sentence that a batterer receives, and so in that sense they are trying to deal with just that problem. Unfortunately, they are ineffective for the most part.

The most difficult part of this is that there are so many different levels at which action has to be taken. I think that looking at the protection model that is attached to the brief, shows you how action has to be taken, step by step, along the route. I think that it really is simply going to require that kind of slogging effort. I do believe that there has been, increasingly over the past several years, a tendency in government to urge diversion from the criminal justice system.

I know that there have been conferences lately—one in Toronto and there is one coming up in Vancouver in March—on victims and the victims of violent crime and how they can be assisted. Those conferences are involving social workers and, I trust, also people from the legal profession, and they are beginning to look at how they can change their practices. I think there is the beginning of a trend in the other direction, but in the meantime it is going to require that all of us, in whatever ways we can and with whatever authority we can, work to change the practices, in whatever aspect of the system we come into contact with.

Mr. de Corneille: Can I offer a suggestion and see what your thought would be to this?

The desire to try to bring the couple together, to bring about understanding in the family court where there is a breakdown of family life, and so on, might be suggested for all cases where there seems to be hope for it in treatment and therapy. But we recommend, wherever violence occurs, that this be treated as a totally different category. In other words, to clarify the awfulness of this—and to make it clear to the public that this is one area which will be totally sorted out as very separate—the moment violence enters into the picture it is no longer a family court case.

• 1025

It then becomes criminal and very serious. I am wondering what your reaction would be to that or is it too extreme?

Ms. Barnsley: No, I think it is part of the proposal we are making that, in fact, diversion to family court be stopped for wife assault cases; it is increasingly a problem. The arguments in favour of using family court is that there are support services available to both the victim and the assailant, and advocacy services, if you like. And that is a misunderstanding of the way family court works. In fact, family court counsellors are also probation officers; the major focus of their work, according to the accounts they gave us, is the probation officer function. They are focused on the accused and are not advocates for victims.

So I think one simple solution might be to support programs such as those in Windsor, Ontario, which recently received some publicity in the *Globe and Mail*, I believe. There is a similar program—developing in London, Ontario—of advocacy services for battered women. In addition, I think it should be possible for the services which now exist in family court to be transferred to criminal court division so that there are support services and more adequate information available in criminal court for battered women to receive some assistance, and for the accused. But, rather than arguing that the cases have to be heard in family court because those services exist, we have to be realistic about what those services are and transfer any supportive services and additional information processes to criminal court.

Mr. de Corneille: You have been most helpful. Thank you very much.

The Chairman: Thank you. Mrs. Mitchell.

Mrs. Mitchell: I should also like to thank Jan for coming over the mountains and presenting such a fine report.

I should also like to mention that almost all other witnesses have referred to the outstanding work the Vancouver Women's

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Research Centre has done over a longer period:, I think, than most centres in Canada. I have only one complaint and it is that they had the nerve to move out of my riding.

I would like to concentrate on a couple of areas other than the justice system because that seemed to be the focal point, first of all, and our critic, Svend Robinson, will certainly be most interested, as we all are, in that effort. I wanted to go to the section on social services. I know that, of course, health and social services are a provincial jurisdiction. But, on the other hand, 50 per cent of the costs are paid federally and, as you mentioned I think, we do need to be constantly aware of the advocacy role and of the leadership role of the federal government.

In the area of social services, I wondered if you had any ideas for changing financial arrangements so that the woman herself has more alternative. It seemed to me, if there are more ways the woman herself can have a cheque in her hands so she does not have to be dependent all the time on the battering husband, this would be one thing. If you have any comments at all.... It is usually after the separation comes that the woman, of course, has control over the cheques. That was one question. Maybe I could just pose a couple of others. Well, I will leave that one with you first. I will come back.

Ms Barnsley: I understand from reading the transcript of Lucie Pepin's testimony here that, currently in the province of Quebec, the maintenance cheques are handled by the government so the woman and her ex-husband do not have to negotiate or fight over them. It is quite clear that maintenance payments are a huge problem.

I know the United Way in Vancouver has recently produced a report entitled *Excuses* which looks at the entire area of maintenance payments. Again, the recommendation that some measures be taken to incorporate maintenance payments into the income tax system, much as CPP and UIC are currently, would go a long way to solving the problem.

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Ideally, we would change the situation so that women were not economically dependent on men. That is, I think, a long way off, and so in the meantime I would recommend the tax system proposal.

Mrs. Mitchell: Thank you. Another thing is that it seems to me there is, as we have heard from all witnesses, just a tremendous need for funding for transition houses and similar kinds of alternative shelter for women. From what you were saying I understood that in the transition house in Vancouver there are child care workers, for example. I am wondering if those workers are put in by the social service system. As we heard from the women in Quebec, I think it is quite apparent that the transition houses want to run their own show—they do not want to become another bureaucracy, quite appropriately—and I agree with you that this does not require highly paid professionals. They should be better paid: but perhaps a little closer to the woman's experience herself.

But I am wondering if more could be done to sensitize the whole social service system so that there is more use of Outreach and community use of some of their resources, under the control of the operation of the transition house.

Ms Barnsley: Yes, I know from various transition houses that I have worked with around the country that all of them want, if in fact they do not have, trained child care workers. Vancouver's house is under the Ministry of Human Resources. It did not start out that way but made a decision to in fact become a service of the ministry. So that accounts in large measure for its luxurious position of staffing and funding. I think it is true that there are very few houses in the country that exist now that would want to go that route in spite of the benefits of having more staff and so on.

It is a difficult problem. One of the proposals that was made by social workers whom we interviewed for the protection study was that there be more line workers in the social services system who can be trained specifically so that they can deal with battered women situations: there is such an emphasis in those ministries on protection of children and holding the family as an economic unit that in fact it is often women's situations that get lost.

Again, it is a matter of not recognizing the danger that some of these women are in.

Residency requirements are another problem. I think those systems have to be changed. There is a big debate going on in B.C., for example, among women who have come into contact with the social welfare system about whether or not there should be a policy on wife battering specifically that would direct workers to deal with battered women in a particular way that would be a specific protocol, if you like. There is a concern that it would become too rigid and that it would be developed by people who do not understand the situation well enough to make it a reasonable protocol.

In the interim, I think it is necessary to have more support service within the ministry to have a recognition of the problem.

They sound like minor approaches, but at the moment it is a very difficult system to work in and most of the workers who do provide good service to battered women are doing so against the advice of their superiors and against departmental policy. It is a very difficult situation.

Perhaps this is an area, again, where the federal government could negotiate with the provinces in terms of cost-sharing programs and fiscal transfers and so forth to ensure that this problem is addressed more seriously at the local level.

Mrs. Mitchell: Another question has to do with housing. You mentioned the need for second-stage housing. We also

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heard from some people—I think from Saskatchewan—who were concerned about accommodation in rural areas where there is no transition house and no possibility of one. One of the things they were suggesting was family foster homes—not foster homes for the children, but for the mother and children. It would be interesting to have your comments on it.

Another thing I am beginning to feel we should really be doing is pressuring CMHC and the regional counterparts that have anything to do with social housing that in every social housing unit— every development, whether it be public housing, co-op housing, even senior citizens' housing maybe—there should be one or two units of housing that are reserved for women with children. That is to say,a two- or three-month period of second-stage housing, until they can get settled more permanently in the community, that is a federal jurisdiction.

• 1035

Would you like to comment on that?

Ms Barnsley: I think that is an excellent proposal. I am sorry I did not think of it myself.

Mrs. Mitchell: Is my time up?

The Chairman: No, go ahead.

Mrs. Mitchell: The final question has to do with health care; it is not exactly prevention, although prevention to some degree, but also helping a woman who is isolated and fearful and does not have friends or family around to encourage her to take steps to separate, if that is what seems to be evident. In this area, it seems to me that public health nurses, who hopefully are reaching out through the children into the home, from the school to the home and so on, and also family practitioners, have an important role. What would you say about their role in this? Also, should there be sensitizing programs there, as we have said there should be for social service personnel and the police?

Ms Barnsley: I think the major problem with any aspect of the health care system is that the training is to identify symptoms and to try to treat injuries and obvious symptoms. The characterization of battered women, the diagnosis—and it is one of my favourite phrases—is often "a depression with relationship problems". I think that really misses the point.

In the report, the protection study, there is quite an extensive manual, if you like. I think we have reduced it down to three pages with a magic Xerox machine, but it is, in fact, a very extensive system of how to work with different actors in the health care system, not only to sensitize them to the problem but to give them practical steps they can take.

Changing attitudes, again, is certainly a necessary thing to try to do, but even if attitudes are changed people have to know how they can respond more effectively. We have tried to outline very specific procedures they can follow, and they are similar to some of the procedures that are in place to help rape victims and children who have been abused. They are practical and straightforward and I recommend those to the committee as well.

Mrs. Mitchell: Thank you very much.

The Chairman: Thank you.

Dr. Halliday.

Mr. Halliday: Thank you, Mr. Chairman.

I want to add my congratulations to Ms Barnsley for her very fine presentation. As I recall, we had one from, I think, a psychologist in Vancouver, and it was an excellent one as well. Judging from the name of her organization, Mr. Chairman, I think Ms Barnsley represents a group that, as well as being an advocate on behalf of women, is interested in the research area.

There are three areas I want to touch on this morning in my brief time to question, three different areas of this problem that I want to ask her about.

You have emphasized to a large degree the legal system. This is very interesting, because we have not had quite as intensive a review of that as you have given us, with a complete outline as to how it might be, if not changed, then certainly how existing legislation might be used more efficiently or effectively. The proposals that you have given us: are they in use anywhere now, in any other jurisdiction that you can cite? Are there any areas our research people could look at to see what has happened there as a result of implementing something such as you have recommended to us?

Ms Barnsley: Again, I am afraid the only references are in the United States, as far as I know. In New York, for example, a class action suit was brought by women's groups against the police because they were failing to respond to wife assault calls and failing to arrest batterers, and they won their case. There are studies out of Pennsylvania and New York State that outline the kinds of protocols that police officers now follow.

Several reviews done in the United States came to our attention just as we were finishing this research, and they are noted in the bibliography as well as in the body of the report. Those reviews give some examples of how these systems have worked, and make further suggestions as well. The suggestions are very complementary to the ones we have made.

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So unfortunately most of the work is being done in the United States. I think there are a few programs that might produce such results here, and again, I think the advocacy

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services that are under consideration in London and the one that exists in Windsor might lead to that as well.

Mr. Halliday: I wonder, Mr.Chairman, if the Vancouver Research Centre has had a chance to consult and get reaction from groups such as the bench, the judiciary, Crown counsels, legal associations, as to their reaction to your proposals on this appendix, page 1.

Ms Barnsley: The report was written based on the comments of individuals in the justice system, so the report outlines very extensively the reaction of JPs, prosecutors and so on. The report was just finished at the end of January and so it has not . . . . Our plan is in fact to go to professional organizations, to the Justice Institute of B.C., for example, to do workshops. The Legal Services Society in B.C. is supporting us to do that.

So we are going to take it out to get more reaction and to talk about how to implement some of these things, but at the moment I think it is important to note that there is, over all, a generally positive attitude toward these proposals. There are people who have some suggestions to make, for example, that mandatory arrests happen only at the time of the second offence, or that detainment until trial would be an abridgement of the Bail Reform Act. So they have some minor concerns and things they want to suggest that we change, but their comments were over all positive.

Mr. Halliday: On the issue of how you handle the convicted person after conviction, you are putting a fair emphasis on a type of sentence that would involve incarceration and it varies from about roughly 30 days to 180 days, one month to six months. I wonder if you have done any studies, or have studies been done elsewhere, that would indicate the results of having kept a batterer in jail for three months or one month, and what the chances are of his being a reformed person after that, or what the chances are after such a short period of just coming back and doing the same thing again. Have you got studies on that?

Ms Barnsley: We have not done studies on that. I think it is interesting to note that a lot of people in the police and legal systems particularly— maybe a lot is an exaggeration, but several—pointed out they thought the sentences were too weak. We did try to draw parallels with drunk driving offences since we figured that wife assault was at least as serious a crime as drunk driving, and I think that one of our main concerns was that the women have to have some time. Overnight is not enough, which is the usual procedure when a man is detained by the police. So a longer period of time is required for her to make other arrangements and perhaps to settle the business of possession of the matrimonial home and so forth.

Mr. Halliday: Mr. Chairman, I wonder if I could ask, in this same general direction, as an alternative to terms in prison, what would your group think about the value or otherwise of community service orders as a more effective deterrent and probably a more effective rehabilitation measure than prison sentences?

Ms Barnsley: Just for the record, we do recommend fines as an option as well as prison terms.

Mr. Halliday: That would not be called community service orders, though, I do not think.

Ms Barnsley: No, I was just adding that. The community service orders, and also there has been a proposal for jail on weekends, that it is possible to sentence men to jail on weekends. They can work during the week and continue presumably to support their families.

I think those proposals are worth considering, but the difficulty is that unless there is some kind of enforcement during the time a man is not in jail, the woman is still in danger and, as we have seen, the restraining orders do not work. I think that the notion of the central registry, which would increase police effectiveness in dealing with those restraining orders and similar conditions, would help, but the onus is still on the woman to protect herself if her husband breaks the order, if he comes and tries to attack her or harass her. So it seems that until we address that problem, incarceration is an unfortunate but necessary step.

Mr. Halliday: Another different line, Mr. Chairman, on the issue of funding, Ms Barnsley has told us about the need for more transition houses and the great need for money, and I dare say she is right. We have here today the parliamentary secretary for the minister, and I know he would probably confirm that if our report comes out with a recommendation that will involve funding, the first question that the minister will ask will be: Now, what kind of dollars are we talking about, and where will we get them?

• 1045

I am wondering what research you have done on that in terms of what you feel is needed here in Canada in terms of dollars in the immediate next year, let us say, bearing in mind that what you would like to see you obviously would not have the structural base to spend the amount of money that should be spent in the first year. What are we talking about in terms of money for the next few years, say the next one to five years? Have you studied the situation across the country so we could give the minister some idea of what moneys we are talking about, because if we are going to be responsible as a committee we have to give her some idea of what we think is going to have to be spent.

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Ms Barnsley: We have not done studies of that nature; most of our work is not in the area of government programs. However, rather than my giving an estimate of the kind of money that I think would be involved, it would be a relatively simple matter.... I know that it was possible for Linda McLeod, for example, in her report to get an estimate of the kinds of costs that are incurred at the local level by transition houses. I would expect that the department would be able to get information on the operating expenses of a range of transition houses in different communities. They will not all be the same; the needs are different in rural areas, for example, as opposed to urban centres. To get an estimate and develop a budget, and I know this kind of study was suggested some years ago and should be followed up, I think it is appropriate for the department to do that kind of study.

Mr. Halliday: Do you think that any of the funding that is now given by the federal Department of Health and Welfare Canada, could be better spent in this area? I suspect they probably could. I am wondering if you have any suggestions as to what areas money might be transferred to—from where to where—because that is going to be a very important point too. The minister does not have a lot of new money to play with, but if she could be convinced that this was a more important thing than some other program, maybe that could be effected. Do you have any comments there as to where we might find some—

Ms Barnsley: I am not familiar with all the programs in the Department of Health and Welfare, but I am sure there are programs that, after a few years of running, perhaps the provinces could pick up in exchange for money being used by the federal government to support transition houses. I am simply not familiar enough with the internal workings of the department to know how to shift budgets.

Mr. Halliday: One more question?

The Chairman: One more question.

Mr. Halliday: This question is sort of more of a fundamental research one on the whole subject of wife battering or spousal battering that we are talking about. It intrigues me as somebody who professionally has been dealing with people all my life. Why are we having this problem with men, particularly? It obviously is much more prevalent with men. Is this some defect in the man's genes or some defect in the way his personality has developed through his environment? What would happen if that same man, who is known to be a wife batterer, had met up with a different woman, would he still have been a wife batterer? If it is an inherent problem, do we not have it in women as well, and if so, do they camouflage it better? Is there some research that, although not important today in order to get you help for your transition houses, is fundamental to the understanding of this whole thing, to get to the root of it? Do you know anything about this?

Ms Barnsley: Primarily why we did the report, the red book, called *Battered and Blamed*, was to talk to women themselves to find out what it actually means. There are a lot of theories about wife battering that have existed for several years, and many of them are, as you suggest, a problem of men just being defective in some way.

There are too many cases to assume that is the correct theory. Most of the theories are over-simplifications. One of the reasons we did the study with these women was to ask them what their situations were like. The main source of the problem seems to be the authority that men have to make the rules in marriage. Society has developed that way; it has given men those rights and very little direction recently, I think, on how to exercise them. I do not think it is a psychological problem.

• 1050

I think it is also true, from women to whom I have talked, that a woman marries a man not knowing necessarily that he has battered before and that in a previous relationship he has been violent. I do not think it matters who the woman is; I think it is fundamentally a problem of the rules of marriage and the way marriage and the family are structured in our society. That is the basic crux of the issue.

Mr. Halliday: Then you are saying that the man is likely to be a batterer no matter whom he had married.

Ms Barnsley: One of the interesting questions is why some men batter and others do not. I think we are a long way from knowing the answer to that. But I think it is true that the structure exists in such a way within the family for the man to do it if he is disposed to do it and that there are very few steps taken, if any, to stop him.

Mr. Halliday: Thank you, Mr. Chairman.

The Chairman: Thank you, Mr. Halliday.

Mrs. Killens, just before we start counting your time, I would like to ask the members of the committee, since there are a lot of reports that our witnesses have brought here, whether we could put a table at the exhibit of the committee. I refer to *A Study of Protection for Battered Women, The Social Organization of Family Violence, oA Review of Munroe House, Second Stage Housing for Battered Women, Battered and Blamed: a report on wife assault from the perspective of battered women*, from the Women's Research Centre. Could we have these considered an exhibit to the committee?

The time is so short, although the witnesses did bring many other documents. But pursuant to this brief about wife assault and protection of battered women, that was summarized in the report tabled to the provincial government in January. But some other appendices have not been mentioned at the begin-

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ning. Could we attach as an appendix on the issues of this committee meeting?

An hon. Member: Agreed.

The Chairman: It is agreed.

Mrs. Killens.

Mrs. Killens: *Merci, monsieur le président.*

Ms Barnsley, it is very fortunate for the committee that you came at the end. Your brief was presented to us very clearly, precisely. At times I felt it was, for me anyhow, a very sobering and touching presentation this morning. I wondered how you kept your serenity. You seem to be so full of it, and it came through how much there is to be done and how far we have to go. It is the first time this morning that I realise that we have so much catching-up to do, and I am almost afraid. I should not say that. I should be optimistic; I am by nature optimistic. As I heard you this morning, I thought my gosh, we have a lot to do.

I will be quick in my questions. Your Appendix I gives us a model for providing protection for battered women. Other witnesses before you told us there were only two ways we could go: Either we put the batterer in jail, or we do nothing. I wonder if your services did any study. You talked to us about support services, but you only mentioned it in your presentation. Do you have anything that would look something like an organogram that we have as a model for providing protection that would talk to us about rehabilitation for both the batterer and the wife? Do you have that?

Ms Barnsley: There are some efforts to develop those kinds of programs that will be effective in helping batterers. There is very little information available on programs that are effective in working with the men. There are two studies on staffs, whichI can refer to the committee, so that they could make some information available to you. But there is a long way to go in that area.

• 1055

Your feeling of being overwhelmed is a usual one. I can only suggest, in order to help you deal with it, that you come visit, that you come out and see what is going on at the local level, how much work is being done already in these areas by women and women's organizations, not only to help battered women, but also to begin to address the other problems of changing these systems. The only thing I think that keeps us going is that when we see what actually is already being done, we know it is possible to do more.

Mrs. Killens: My second question regards protection against further assault. You spent a lot of time in your presentation, and repeatedly at the beginning you came back and used certain phrases like "restraining orders do not work." Then you told us that we should have a centre of registry for restraining orders, for control of it. My question is: At what level would you see the registry? For example, people move from city to city, from province to province. It is a big country. We have computers now. So, at what level would you see this kind of control centre?

Ms Barnsley: It would have to be at the local level, I assume, for local police departments to use it. There is, I believe, a central police computer which could transfer information, and I think that can be explored. It is a difficult problem. I know that if an order is issued on, for example, a man in Kelowna, British Columbia, the Vancouver police will not have a record of it. I think they could work out ways of transferring that information on the computer system.

Mrs. Killens: I think of all the things we have to do, we must have these transition houses, but it scares me to think that we do not have protection against further assault. We do not have enough of protection. Can you imagine the state of mind of the children and the mother? That is a daily fear.

Now, my other question is on page 16 of your brief, where you recommend to us to look towards integrating the collection of support and maintenance into the income tax system. Would you tell me if that means it would also be the same system for people who are divorced? It would not only be for battered women. What you are telling us to do would apply as well to those who do not keep the maintenance in a divorce. Is that my understanding?

Ms Barnsley: Yes, that is correct.

Mrs. Killens: So that would be killing two birds with one stone, I think.

Ms Barnsley: That is right.

Mrs. Killens: That is a very good one which I think the country must pursue. That is all, Mr. Chairman. If somebody else—

The Chairman: *Merci, Madame Killens.*

Miss MacDonald: Mr. Chairman, may I ask a supplementary to one of Dr. Halliday's questions?

The Chairman: Yes, Miss MacDonald.

Miss MacDonald: Thank you, Mr. Chairman. Dr. Halliday was pursuing questioning with you with regard to the causes of wife battering, as to what triggers a man into following this kind of behaviour.

Has your centre done any study with regard to the authority position of the man in marriage, how the role model in marriage is changing as more equality is introduced into the marriage partnership, and whether or not this shift is causing anxiety, uncertainty, fear, among men so there is a noticeable increase in wife battering? Is there is any correlation between the two? Because if there is, there are going to have to be many more steps taken towards some kind of prevention. We have not really been discussing that in any great detail.

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• 1100

Ms Barnsley: Yes. First of all, we have not done studies specifically on the issue that you raise. I should point out that the study I referred to, ***Battered and Blamed***, is only a year and a half old, and those interviews were conducted with women who were not only economically dependent but also economically independent. We did not choose them that way, but that is how it turned out. The point is, it does not seem to make any difference whether the woman works outside the home or not. The authority issue is still the central issue

I know that you have seen the film *Not a Love Story*, and in our work on the issue of pornography recently it has become clear that more violent, more masochistic pornography is surfacing. I think there are people who blame the women's movement for it; I think, rather than blaming it, it is actually true that, as women do become more independent and assert themselves in fact there will be more attempts to control them, and I believe pornography is one attempt.

So I think there are consequences coming from women's increasing independence, but the structures of marriage and of our institutions are such that controls exist already on that independence— I think that is why women are not more economically independent—and they will work their way. Men's authority to make the rules in marriage is just an example of how the institution of the family operates. I believe it is going to be an increasing problem.

I think causes are good to understand. It would be nice if we had time and energy to do research into the causes of wife battering and a lot of the other problems that we see in our society. Most of us are too busy dealing with the consequences and I think the priority has to be on dealing with the consequences for now. If there is additional money, if there is additional time to deal with causes, fine, but there are crises happening every day to which we must pay attention.

The Chairman: Thank you, Miss MacDonald. Mr. de Corneille and Mrs. Mitchell.

Mr. de Corneille: A little while ago I was talking about the problem that, in the attempt to be more humane, which I thought was a good development, and to rehabilitate criminals, unfortunately there emerges the situation that those who are subject to violence can be endangered.

In other words, you can have a good objective—trying to be more humane, to rehabilitate, to be more sensitive in the penal system, to move to Family Courts to try to take away situations that are obviously not criminal and to recognize that not everything is a criminal case, to try to fine tune the law— then in turn, as I pointed out, that can result, unfortunately, in there being a problem for those of us who want to fight against this phenomenon of wife and child battering and beating.

When you try to change that system, you find that you are meeting head on the problems of the very people who would normally be sympathetic with, and sensitive to, these very issues. They have already started down the road of trying to fine tune it. Therefore one runs into the problem that those who should be supporting your concerns are themselves worried that this might unhinge their drive toward a refinement of the legal codes, the legal system, and the penal system to try to rehabilitate and to minimize violence.

I think there is another cross current, too, that I would like to have you comment on, which is similar. We have seen a tendency and a trend over the years to move from central or federal law, and so on, a trend to try to put family law into the provincial jurisdiction. In fact, in recent discussions on the constitution some time ago, we saw that the federal government was proposing what the provinces have been asking for more and more, and that is to have family issues totally under provincial jurisdiction.

I, myself, am gravely concerned about the implications of that, because we have seen cases where people have jumped from province to province, have almost kidnapped children, and there is the problem of trying to get orders that are carried out in one province effected in another province.

• 1105

It seems to me also that in some provinces you have one standard, in another province another in this country, and it leads to great confusion. So I am not exactly sold on the idea that family law should be in the provincial realm, and yet it seems to me that so much wisdom, presumably, is on the side of moving things to the provinces. All the provinces would seem to say so, and even the federal government is proposing it.

Now, here we are proposing something which suggests something quite to the contrary and that is to say that the federal government become involved in terms of computers, in terms of the tax system, and so on, and try to make a central attempt to deal and cope with this phenomenon because wife battering, child-battering and so many aspects of family law involve escaping from .... The criminal is escaping and the victim is the victim of the system of divided jurisdictions.

I wonder if you have any comments on the problem of this trend and whether those of you who are working in this field have something else that you recommend about that subject. Again, I think unconsciously a lot of people who are dealing in this field do not realize that their prejudices are built on this premise.

Ms Barnsley: I agree with what you said. I think that divorce and family law ought to be within the jurisdiction of the federal government. I think there can be exceptions made in some cases, but I think that all the reasons that you have cited about maintenance payments and kidnapping of children and so forth are ample evidence that we may be a minority on this issue, but I think we are right.

[*Text*]

Mr. de Corneille: Then that brings you to another question, too, which is a matter of jurisdictions and trends. One of the things that I see about transition houses, halfway houses, or in fact the whole service to the battered wife, the victim of criminal assault of women and of children— and I keep putting in children because I think one cannot divorce the two—is a very important link that we perhaps ought to bear in mind, and that is the question: Under which department does this area of concern fall?

I worry about this being under the area of, perhaps, the penal system, because obviously that means that the victim is put in the category of the criminal. I see it even a problem under the system of justice. It seems to me that some thought has to be given as to how we can do it so that it will receive the proper kind of funding. Yet, at the same time, it has to be close enough to the legal system that it is highly integrated within it. It has to be able to modify the behaviour of the legal system to work effectively on behalf of the needs of the family. I suppose that is true of all social work.

I wonder what your recommendations are both provincially and federally, where it might be best to see this placed. It could be under the rights of women, but then that avoids the question of children; it could be under health and welfare; it could be under law, and so on and so forth—under justice. How do you feel about this in the provincial area and in the federal area— the jurisdiction for this whole problem?

Ms Barnsley: You are referring specifically to the funding of transition houses and support services?

Mr. de Corneille: That is right.

Ms Barnsley: Health and Welfare is the logical area. I think at the provincial level it is the ministries of social services or human resources, whatever they call themselves in each province, that should be looking at that support for those services. I think the health area has been underestimated and perhaps ought to be strengthened— the notion that wife battering is a health problem. It certainly creates a lot of health problems for women who are battered and their ongoing health should be protected. So those departments ought to have more of a role to play.

Mr. de Corneille: Mental and physical.

Ms Barnsley: Yes. It is not a welfare issue, it is more appropriately a health issue. I think there is no problem about integrating. I think if those departments do support transition house services and the educational programs of other support services, that there will be links with the justice system and the penitentiary system and so forth.

• 1110

We have outlined in the briefs and the reports and so on, specific measures that the Department of the Solicitor General and the Department of Justice can take, and what needs to happen at the local level.

I do not think we need to worry that it all has to be integrated together in the same place. I think it would be fine to have different departments do what is appropriate to their own mandate.

Mr. de Corneille: Thank you.

The Chairman: Thank you. Now we will go back to Vancouver to conclude with Mrs. Mitchell.

Mrs. Mitchell: I just wanted to refer back to a point that Dr. Dutton made.

I take note, and I think it is a very important point that you made, that it is not attitudinal change but action that is needed. I think we have all moved quite a bit from the first stages when we really wanted to look at causes and diagnoses and so on, and pathology, to seeing very realistically that action is needed.

I want to come back to the point—this is refuting what I have just said in a way—that Dr. Dutton made. I thought he was saying that sexual politics really is not relevant in this issue. It gets back a little bit to the point, I think, that Flora was aiming at. Since it has really been the women's movement across Canada—women working very hard in transition houses and women's organizations—which has brought this committee together essentially, and has brought the public, and certainly all of us as MPs, to a much greater awareness, I would like to ask if there would not be less battering if we continue to work on a more basic change in societal attitudes to marriage? A change, particularly so that young people have different expectations and different attitudes as they go into marriage, so that women are treated not as spouses but as people with equal rights. It is an equal partnership. Women are not possessions of men, as has been traditional in most societies, therefore the men do not have a right to beat their wives. This is not a private matter; it is a public matter.

Also the point that was raised earlier, that we must be working towards a system—now this is going to take time—which really ties economic independence into that; that women have a right to work with day care, and so do men of course, and they also perhaps ideally should have a chance to remain at home and have some financial pay for parenting.

I would like to pay tribute to women activists and to the women's movement that has really brought this to the fore. It seems to me that sexual politics really does have a very important part to play in this, both from an activist point of view and from the point of view of creating more public awareness and change in societal attitudes.

[*Text*]

Ms Barnsley: I am not sure that changing attitudes towards marriage and training our young people to expect marriage to be a more egalitarian relationship will do this. One of the most interesting things in interviewing transition house residents is that the overwhelming majority of them had very positive expectations of marriages. They expected to be in an equal partnership in their marriage; clearly their expectations were not fulfilled.

I think you are right that it is in fact the economic independence of women that is going to change the structure of marriage, and until that changes I am afraid it will function very much as it has now with all of the inherent problems.

Mrs. Mitchell: Thank you.

The Chairman: Ms Jan Barnsley, I wish to express our appreciation for your trip over the mountains, and your outstanding performance and presentation. We really thank you for all the reports you brought with you and *A Study of Protection for Battered Women* that you tabled with the B.C. government. You mentioned that it was being sent to the federal government too—I must correct the record.

Ms Barnsley: Yes, the federal Department of Justice made a contribution to the funding of the research as well, and received copies of the report. There is clearly on the cover a caveat which says the views are not the views of the Department of Justice, but we do appreciate that they supported the work.

The Chairman: Thank you very much.

May I remind the members that the committee will be sitting tonight at 8 o'clock with the Honourable Judy Erola, the minister responsible for the status of women.

The meeting will not be in this room, but in Room 308. This meeting is adjourned.